UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,914	09/28/2001	Conleth S. O'Connell	VIGN1200-1	4230

44654 7590 04/11/2006		EXAMINER	
SPRINKLE IP LAW GROUP		LUU, LE HIEN	
1301 W. 25TH STREET			
SUITE 408		ART UNIT	PAPER NUMBER
AUSTIN, TX 78705		2141	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/965,914	O'CONNELL ET AL.
	Examiner	Art Unit
	Le H. Luu	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 February 2006</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-61</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-61</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>29 August 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   Claims 1-61 are presented for examination.

2.   The declaration refiled on 02/23/2006 under 37 CFR 1.131 has been considered

but is ineffective to overcome the Li et al. patent no. 6,591,266 reference.

3.   The evidence submitted is insufficient to establish a conception of the invention

prior to the effective date of the Li et al. reference. While conception is the mental part

of the inventive act, it must be capable of proof, such as by demonstrative evidence or

by a complete disclosure to another. Conception is more than a vague idea of how to

solve a problem. The requisite means themselves and their interaction must also be

comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir.

1897).   Exhibits A and B do not explicitly prove, demonstrate, nor clearly show in

details how the claimed invention can be constructed using information from the email

and the outline in the Exhibits A and B.

The affidavit or declaration and exhibits must clearly explain which facts or data

applicant is relying on to show completion of his or her invention prior to the particular

date. Vague and general statements in broad terms about what the exhibits describe

along with a general assertion that the exhibits describe a reduction to practice

"amounts essentially to mere pleading, unsupported by proof or a showing of facts" and,

thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d

713, 184 USPQ 29 (CCPA 1974).   Applicant must give a clear explanation of the

exhibits pointing out exactly what facts are established and relied on by applicant. 505

F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164

(CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when

they occurred.").

The question of sufficiency of affidavits or declarations under 37 CFR 1.131

should be reviewed and decided by a primary examiner. Examiner has reviewed the

evidence submitted, and decided that the evidence submitted is insufficient to establish

a conception of the invention prior to the effective date of the Li et al. reference as

discussed above.

4.   Examiner maintains the rejection as set forth in the last office action.

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

6.   Claims 1-61 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over

Li et al. (Li) patent no. 6,591,266, in view of Carlson patent no. 6,697,849.

7.   As to claim 1, Li teaches the invention substantially as claimed, including a

method for cache management and regeneration of dynamically-generated content

("DGC") in one or more server computers within a client-server computer network, comprising the steps of:

in response to regeneration event, identifying a set of one or more previously cached DGC components affected by said regeneration event (Abstract; col. 7 lines 25-31; col. 8 line 54 - col. 9 line 17);

regenerating a new version of each affected DGC component in said set (col. 8 line 54 - col. 9 line 17); and

replacing each affected DGC component in said set with said respective new version of each (col. 8 line 54 - col. 9 line 17).

However, Li does not explicitly teach incorporating a criteria associated with said regeneration event.

Carlson teaches using tags to set caching criteria associated with a dynamic generated web pages event (col. 25 line 11 - col. 27 line 67).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Li and Carlson to incorporate a criteria associated with said regeneration event because it would enhance system performance.

8.   As to claims 2-3, Li teaches serving said new version of one or more of said affected DGC components in the form of a dynamically-generated page to a client computer in said client-server network in response to a request from said client computer (col. 7 lines 35-54; col. 9 lines 43-64).

9.   As to claims 4-6, Li and Carlson teach identifying which of said affected DGC components satisfy a threshold criteria; said set of affected DGC components comprises only those affected DGC components that satisfy said threshold criteria; and said replacing step further comprises flushing those of said affected previously cached DGC components that do not satisfy said threshold criteria; wherein said threshold criteria is an arbitrary value of an arbitrary parameter; wherein said arbitrary parameter is an elapsed time since that last client computer request for a DGC component or for a dynamically-generated page (Li, col. 8 line 54 - col. 9 line 17; Carlson, col. 25 line 11 - col. 27 line 67; col. 30 lines 13-60).

10.   As to claims 7-10, Li and Carlson teach any one or more of said identifying, regenerating and replacing steps can be performed at a different one of said one or more server computers from each other; limiting to a preset threshold value the number of affected DGC component regenerations that can simultaneously occur; said preset threshold value is arbitrarily determined according a desired network performance level; said preset threshold value is determined by a static descriptor, such as a configuration variable (Li, col. 5 lines 28-39; Carlson, col. 13 line 22 - col. 14 line 6; col. 25 line 11 - col. 27 line 67; col. 30 lines 13-60).

11.   As to claims 11-14, Li and Carlson teach said regeneration event comprises a change to a page template, an explicit flushing event, or a change to a DGC component; said explicit flushing event comprises the expiration of a preset time period; said criteria associated with said regeneration event is a change to a page template

from which one or more previously cached dynamically-generated pages ("DGPs") were generated; said criteria associated with said regeneration event is a change to the content of one or more of said. previously cached DGC components, or no criteria (Li, col. 8 line 54 - col. 9 line 17; Carlson, col. 25 line 11 - col. 27 line 67, col. 30 lines 13-60).

12.   As to claims 15-22, Li and Carlson teach every cached DGC component is associated with a custom cached file name comprising a combination of an initial file request name with a selected attribute of a computer user; said selected attribute is selected from the group including browser name, user language, computer domain, computer platform, and content ID; said selected attribute is a default attribute; said default attribute is no user attribute; said selected attribute is used in said regenerating step to regenerate said new versions of said affected DGC components; said selected attribute is keyed to a particular application; updating a docroot file system to indicate changes resulting from replacing said affected DGC components; docroot file system is associated with a memory-based cache repository or a file-:based cache repository (Li, col. 7 line 33 - col. 20 line 6; col. 23 lines 50; Carlson, col. 25 line 11 - col. 27 line 67, col. 30 line 13-60).

13.   Claims 23-61 have similar limitations as claims 1-22; therefore, they are rejected under the same rationale.
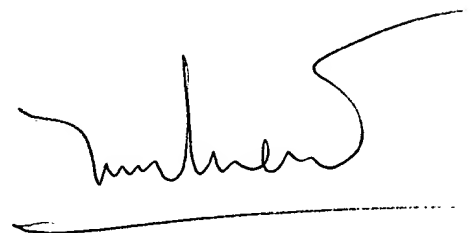
14.   Applicant's arguments filed on 02/23/2006 have been fully considered but they

are not deemed to be persuasive.

15.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LE HIEN LUU
PRIMARY EXAMINER